



TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

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Opinion Committee

Hon. Dan Morales
Attorney General of Texas
Supreme Court Building
Austin, Texas 78701

Dear General Morales:

Senate Bill 545, of which we are enclosing a copy, amended Article 5282c, V.A.C.S. effective September 1, 1991, the Professional Land Surveying Practices Act. The particular provision whose constitutionality is in question is Section 17(d), which may be found at page 10. It reads:

"The requirements of this subsection [pertaining to continuing professional education] do not apply to registrants who are also registered as Registered Professional Engineers until December 31, 1995."

Article 5282c in Section 35 provides that:

"The continuing education requirements prescribed by Section 17, Land Surveying Practices Act of 1979 (Article 5282c, Vernon's Texas Civil Statutes), as amended by this Act, apply only to the renewal of a certificate of registration eligible for renewal on or after January 1, 1993."

The Land Surveying Practices Act of 1979 provides for the registration of individuals qualified to provide land (boundary) surveying services to the public and to develop rules of conduct necessary to protect the public from gross negligence or incompetence (among other things). The continuing education requirements of the law are designed to keep the registrants informed of current actions necessary for their practice to be free from such gross negligence or incompetence.

No part of the professional engineer's renewal procedures include requirements that they keep informed of current surveying practices.

Approximately half of the licensees of this Board are Registered Professional Engineers. Approximately 80% of that group were grandfathered into the profession of land surveying as professional land surveyors by the Land Surveying Practices Act of 1979, which grandfather clause has since been deleted from the Act.

The effect of the new amendment is that Registered Professional Engineers of whom 80% were grandfathered and therefore have never been tested as professional land surveyors enjoy more lenient requirements compared to professional land surveyors who have actually already proven their skills by passing a rigorous examination.


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It would appear that this exemption, in the absence of any valid justification, may be unconstitutional.

The Board requests a formal Attorney General Opinion on the legality of the amendment.

Yours truly,


Sandy Smith
Executive Director

SS:mb
Enclosure